

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36070

STATE OF IDAHO,)	2009 Unpublished Opinion No. 645
)	
Plaintiff-Respondent,)	Filed: October 21, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
LATRISHA M. NIELSON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gregory M. Culet, District Judge.

Order revoking probation and ordering previously imposed sentence into execution, affirmed.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge, GRATTON, Judge
and MELANSON, Judge

PER CURIAM

Latrishia M. Nielson was charged with trafficking in methamphetamine and pursuant to a plea agreement, pled guilty to an amended charge of possession of methamphetamine with intent to deliver and the state agreed to dismiss a separate misdemeanor case. The district court sentenced Nielson to a unified term of ten years, with three years determinate and the court retained jurisdiction. After Nielson completed her rider, the district court suspended her sentence and placed her on probation for four years. Nielson subsequently violated the terms of her probation and the district court revoked her probation and ordered the underlying sentence into execution. Nielson filed an Idaho Criminal Rule 35 motion for reduction of sentence, which

the district court denied. Nielson appeals from the order revoking her probation, contending that the district court abused its discretion by revoking her probation and ordering the sentence into execution without reduction.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 326, 834 P.2d 326, 328 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation, a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation or in ordering execution of the sentence without reduction. Therefore, the order revoking probation and directing execution of Nielson's previously suspended sentence is affirmed.